



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1998

Mr. Hugh Davis
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR98-1419

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115640.

The Fort Worth Fire Department (the "department") received a request for certain information under the Open Records Act on March 2, 1998. You requested a decision from this office on March 17, 1998. Consequently, you failed to request a decision within the ten business days required by section 552.301(a) of the Government Code.

Section 552.301(a) requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See Hancock*, at 381.

You have not shown compelling reasons why the information at issue should not be released. In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the department must release the information. *See also* Gov't Code § 552.352 (distribution of confidential information is criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/rho

Ref.: ID# 115640

Enclosures: Submitted documents

cc: Mr. Jim Tidwell
Deputy Chief
Fort Worth Fire Department
1000 Throckmorton Street
Fort Worth, Texas 76102
(w/o enclosures)